

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

Department of Consumer and Regulatory Affairs (DCRA)
Administrative Issuance System

DCRA Bulletin No. 1-01D-08

SUBJECT: Reasonable Accommodation Requests Policies and Procedures

EFFECTIVE DATE: January 9, 2009

EXPIRATION OR REPLACEMENT: Upon revision

PURPOSE AND AUTHORITY:

This DCRA Administrative Issuance bulletin outlines the following:

- delegation of authority
- required training
- processes for providing information to and receiving information from the public regarding Reasonable Accommodation;
- process for evaluating Reasonable Accommodation Requests

SCOPE:

Pursuant to Article III (B) (5) (c) of Mayor's Order 2008-69 (April 25, 2008), 55 DCR 6916, 6919-6920 (June 20, 2008), the Department of Consumer and Regulatory Affairs (DCRA) shall:

Approve reasonable modifications of building code, zoning, and other regulations with DCRA's purview when called for by [Title II of the Americans with Disabilities Act] and the [Fair Housing Act].

In order to fulfill its responsibilities under Mayor's Order 2008-69, the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(B), 14 DCMR § 111.1 *et seq.*, the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, and the Rehabilitation Act, 29 U.S.C. § 794 and D.C. Code § 2-1402.31, the following procedures are implemented, effective

IMMEDIATELY.

The Permit Division Chief and Zoning Administrator shall have delegated authority to review, approve/disapprove, and prepare comments regarding reasonable accommodation requests pursuant to 14 DCMR § 111.3.

NOTE: DAIS Bulletins are strictly procedural in nature and have direct applicability only to DCRA employees under the authority of the Director

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The Permit Division Chief and Zoning Administrator may confer with the Office of Disability Rights on reasonable accommodation requests. All proposed reasonable accommodation denials must be forwarded to the Office of Disability Rights prior to issuance of a denial of the applicant's reasonable accommodation request.

PROVISIONS:

By virtue of the authority vested in me as the Director of the Department of Consumer and Regulatory Affairs ("DCRA"), pursuant to Mayor's Order 2008-69 and in accordance with the provisions of Procedures Regarding Requests for Reasonable Accommodation under the Fair Housing Act, 14 DCMR § 111 *et seq.*, I hereby delegate the authority granted to me under 14 DCMR § 111.3 to the Permit Division Chief ("PDC") and the Zoning Administrator ("ZA").

The PDC or ZA shall review requests for a reasonable accommodation as referenced in 42 U.S.C. 3604 (f) (3) (B), ("reasonable accommodations") received from the public or other District Government agencies. The PDC or ZA may consult with the Office of Disability Rights ("ODR") when reviewing reasonable accommodation requests. The PDC or ZA will maintain the confidentiality of those requests, expeditiously issue decisions upon those requests, and maintain the records of those requests.

I. Training

The ODR in coordination with DCRA's Office of Human Resources shall provide training in the performance of DCRA's responsibilities under the Fair Housing Act ("FHA"). The training shall be provided to those employees who participate or may participate substantively in the zoning, planning, permitting, or coordinated approval process which includes the Office of the Zoning Administrator management and staff, the Permit Center management and staff, Plan Review Coordinators ("PRC"s), and construction permit discipline reviewers. Training will also be offered to the Office of Planning, Historic Preservation Review Board and the Board of Zoning Adjustment. The training dates and times will be coordinated with the PDC and the ZA. Completion of this training is mandatory for DCRA employees. A certification training completion will be included in each employee's personal file within DCRA's Office of Human Resources.

The ODR, in coordination with the DCRA's Office of Human Resources shall provide the FHA training within 90 days of the issuance of this Administrative Issuance.

The FHA training must be provided within 180 days of the hiring of an employee who participates or may participate substantively in the zoning, planning, permitting, or coordinated approval process. At the beginning of each training course, a master attendance sheet will be used to record the name, title, and division of each employee.

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The FHA training will require each employee to complete two hours of training during each fiscal year.

All FHA Training Attendance records and copies of certifications will be maintained in the office of the DCRA Training Coordinator and the DCRA Disability Rights Coordinator (“DRC”). These records will be physically stored in designated file drawers in each office.

II. Process for Providing Information to the Public Regarding Reasonable Accommodation Requests

- A. Informational posters shall be placed in the Permit Center and Office of the Director and provided to the Office of Planning, the Historic Preservation Review Board and the Board of Zoning Adjustment. Posters will be available in all languages identified by the Fair Housing Act and Language Access Act of 2004.
- B. Explanatory brochures, including the text of 14 DCMR § 111 *et seq.*, shall be available to the public in the Permit Center and the Office of the Director and provided to the Office of Planning, the Historic Preservation Review Board and Board of Zoning Adjustment.
- C. Explanatory materials, including the text of 14 DCMR § 111 *et seq.* and a compilation of frequently asked questions, shall be prominently placed on the DCRA web site.
- D. All oral requests for further information shall be directed to the DRC, and/or the ODR.

III. Process for Receiving Reasonable Accommodation Requests

The process for receiving requests for reasonable accommodations under the Fair Housing Act shall be as follows:

- A. Requests for reasonable accommodations are not required to be in writing, but requests for reasonable accommodations shall be documented by District officials. If a request is made orally, the requestor will be directed to the DRC, who will enter the information in the appropriate format for processing.
- B. All oral or written requests for reasonable accommodation received by DCRA staff or received by other District Government agencies subordinate to the Executive Office of the Mayor, boards or commissions, including, but not limited to the Office of Planning, the Historic Preservation Review Board, and

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the Board of Zoning Adjustment, shall be forwarded to the DRC within five (5) business day of receipt of the request.

- C. All requests shall be logged onto DRC's reasonable accommodations tracking correspondence tracking system, within one business day of receipt of the request. The request shall then be forwarded to the PDC or the ZA depending on the discipline.
- D. The DRC shall maintain a calendar of the response due dates. The DRC shall send reminders to the PDC or the ZA of upcoming response due dates.
- E. The DRC shall promptly send a letter to the requestor confirming receipt of the reasonable accommodation request.
- F. In documented emergency medical situations and upon request for an accelerated reasonable accommodation permit or zoning review, it is the policy of DCRA to treat such requests as ones for reasonable accommodation if the applicant is a qualified individual under the Fair Housing Act, 42 U.S.C. § 3604(f) (3) (B), 14 DCMR § 111.1 *et seq.*, the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, and the Rehabilitation Act, 29 U.S.C. § 794 and D.C. Code § 2-1402.31. DCRA will make all reasonable efforts to accelerate the review of the request or its procedures whenever it is: 1) reasonable for the District to undertake and 2) the request for the accelerated review or procedure is related to the applicant's disability and necessary to ensure an applicant's equal access and enjoyment of the property in question

IV. Maintenance of Records

- A. The DRC will serve as the Custodian of Records for reasonable accommodation requests in DCRA.
- B. All copies of reasonable accommodation requests, supporting documentation, decisions will be maintained by the Custodian of Records.
- C. The DRC will also maintain records indicating the dates DCRA issues its decision regarding the request to ensure that DCRA responds within the regulatory timeframe.
- E. The DRC will also maintain FHA notices, posters, and administrative correspondence and FHA Training records.

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V. Process for Evaluation of Reasonable Accommodation Requests

- A. PDC and/or the ZA shall discuss the request, including any supporting documentation, with the PRC and may consult with the ODR. The PDC and/or the ZA may also consult with the DRC. The PRC shall advise the PDC regarding which construction permit discipline reviews and which District Government agencies must evaluate the request.
- B. The PDC and/or the ZA shall provide a copy of the request to any District Government agency other than DCRA whose approval would generally be required for issuance of a building permit. Any medical documentation provided in support of the request must be maintained as confidential. Additionally, DCRA will advise the individual requesting the accommodation that the confidential information may be forwarded to additional agencies for review with the individual(s) consent. The agency shall be requested to provide a written recommendation that the request be granted, conditionally granted, or denied within ten (10) calendar days. DCRA will notify the agency in advance that if that agency does not respond within the required ten (10) calendar days, DCRA will deem the failure to respond as a deferral to DCRA on the ultimate determination of whether the accommodation should be granted.
- C. The PDC and/or the ZA shall distribute a copy of the request to all construction permit discipline reviewers for disciplines required to evaluate the request. In addition, the PDC and/or the ZA shall provide a copy of the request to the Chief Building Inspector (“CBI”). A construction permit discipline reviewer and the CBI shall respond to the PDC with a recommendation within 15 business days.
- D. If a construction permit discipline reviewer, the ZA, the CBI, or a District Government agency requires additional information pursuant to 14 DCMR § 111.7, the reviewer, ZA, CBI, or agency shall contact the PDC directly. The PDC shall communicate the need for information to the applicant, with a copy to DRC. The DRC will track all requests for additional information. The requestor shall be directed to respond directly to the PDC or the ZA.
- E. Upon receipt of a response, the PDC and/or the ZA shall provide a copy of the response to the one in need of the additional information no later than the next business day following receipt of the additional supporting information, with a copy of the cover letter to the DRC. The PDC and/or the ZA shall send the requestor a letter confirming receipt of the requested information.

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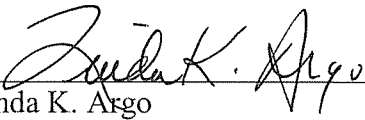
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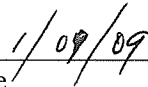
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- F. If a building permit application has been received by DCRA and a request for reasonable accommodation has been made in conjunction with that application, building permit plan reviewers will stay review of the unaffected portions of the permit application until a decision has been rendered on the reasonable accommodation request. If the accommodation is granted, a confirming letter shall be attached to the application.
- G. If the request for reasonable accommodation is received without a building permit application, and the accommodation is granted, the applicant shall attach a copy of the decision letter to the related application.
- H. Once a decision is rendered, a copy of the decision letter shall be forwarded to the applicant and any assisting District Government agencies, with a copy to the DRC and the ODR. The decision shall be sent to the applicant by regular mail and by certified mail, return receipt requested.
- I. If the proposed decision of the PDC and/or ZA is to deny the requested accommodation, the PDC and/or ZA shall first confer with the ODR, prior to denying the request. Only after review by the ODR will DCRA issue a denial of the reasonable accommodation request. The denial shall explain the basis for the denial.

For more information or clarification, contact the Disability Rights Coordinator, Eula Martin at (202) 442 – 8940, Permit Operations Chief, Lennox Douglas, at (202) 442-4533 or Zoning Administrator Matt LeGrant at (202) 442-4652.



Linda K. Argo
Director



Date

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